

JAN 12 2006

FACSIMILE TRANSMITTAL FORM	Application Number	10/727026
	Filing Date	December 2, 2003
	First Named Inventor	Ouderkirk, Andrew J.
	Art Unit	2879
	Examiner Name	Quarterman, Kevin J.
Fax: 571-273-8300	Attorney Docket Number	59417US002
Total Number of Pages in This Submission: 3		
Date: January 12, 2006	Attorney for Applicant: Stephen C. Jensen	

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Issue Fee Transmittal <input type="checkbox"/> Amendment Transmittal	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s)	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Appeal Communication to Technology Center (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosures: Response to Restriction Requirement
<input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR § 1.52 or 1.53 <input type="checkbox"/> Response to Missing Parts under 35 USC 371 in US Designated/ Elected Office (DO/Elect/US)	<input type="checkbox"/> Request for Refund <input type="checkbox"/> Request for Continued Examination (RCE) Transmittal	
<input type="checkbox"/> Drawings	<input type="checkbox"/> After Allowance Communication to Technology Center	
REMARKS:		

THE INFORMATION CONTAINED IN THIS FACSIMILE TRANSMISSION
MAY CONTAIN CONFIDENTIAL OR LEGALLY PRIVILEGED INFORMATION
INTENDED ONLY FOR THE PERSON OR ENTITY NAMED BELOW.

If you are not the intended recipient, please do not read, use, disclose, distribute or copy this transmission.
If this transmission was received in error, please immediately notify me by telephonedirectly at 651-736-3369 or
651-733-1500, and we will arrange for its return at no cost to you.

BEST AVAILABLE COPY

32692

Customer Number

RECEIVED
CENTRAL FAX CENTERPatent
Case No.: 59417US002

JAN 12 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: OUDERKIRK, ANDREW J.
Application No.: 10/727026 Group Art Unit: 2879
Filed: December 2, 2003 Examiner: Quarterman, Kevin J.
Title: PHOSPHOR BASED LIGHT SOURCE HAVING A NON-PLANAR LONG PASS
REFLECTOR AND METHOD OF MAKING

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR § 1.8(u)]	
I hereby certify that this correspondence is being:	
<input type="checkbox"/>	deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
<input checked="" type="checkbox"/>	transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at 571-273-8300.
<u>January 12, 2006</u>	<u>Andrea Newhouse</u>
Date	Signed by: Andrea Newhouse

Dear Sir:

Introduction

This is in response to the Office communication dated 12/12/2005. Claims 1-39 are pending. Claims 1-39 were restricted under 35 USC § 121 as follows:

- I. Claims 1-33, said to be drawn to a light source, and said to be classified in class 313, subclass 113;
- II. Claims 34-39 said to be drawn to a method of manufacturing a light source, and said to be classified in class 445, subclass 24.

Response – Election with Traverse

In response, Applicants elect Group I with traverse.

Traverse is made on the grounds set forth in the Official Gazette at 1184 OG 86 (Mar. 26, 1996), "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer*, and 35 USC §103(b)." In particular, rejoinder of the non-elected Group II claims is respectfully requested upon allowance of the elected Group I (light source) claims. Comparison

- 1 of 2 -

BEST AVAILABLE COPY

Application No.: 10/727026

Case No.: 59417US002

of method claim 34 with light source claim 1 demonstrates the appropriateness of such rejoinder under the guidelines.

With all the recent attention on the large backlog of cases at the USPTO, it would seem more important than ever to avoid unnecessary multiplication of patent applications resulting from overly aggressive restriction practice. Despite the fact that the Examiner has identified different classifications for the Group I and Group II claims, we submit that a substantial overlap in searching and examination activities will be required, and that it would not be unduly burdensome for prosecution to proceed with both groups. On the other hand, forcing Applicants to file a divisional application directed to Group II would burden the patent system by adding another number to the backlog of US applications, and burden the present assignee by requiring payment of a separate filing fee for examination of the nonelected claims, as well as the added costs associated with prosecuting two applications and maintaining two patents.

Conclusion

Applicants have elected Group I with traverse. Continued prosecution of this application is respectfully requested.

It is believed that no fee is due; however, in the event a fee is required, please charge the fee to Deposit Account No. 13-3723. The Examiner is invited to contact the undersigned at the indicated telephone number with questions that can be resolved with a simple teleconference.

Respectfully submitted,

12 Jan 2006
Date

By: Stephen C. Jensen
Stephen C. Jensen, Reg. No.: 35,207
Telephone No.: 651-736-3369

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833

- 2 of 2 -

BEST AVAILABLE COPY